

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

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U.S. DISTRICT COURT  
N.D. OF ALABAMA

TIMOTHY LEE BATSON,

Plaintiff,

v.

MR. DANIELS, Warden II, et. al.,

Defendants.

CV 03-H-305-S

**ENTERED**

OCT 08 2004

**MEMORANDUM OF OPINION**

A Memorandum of Opinion and Judgment in favor of defendants was entered on September 28, 2004. On the same date, objections to the magistrate judge's report and recommendation by plaintiff were filed in the Office of the Clerk. Plaintiff signed the certificate of service attached to his objections on August 14, 2004. Pursuant to the prisoner mailbox rule, this Court accepts the latter date as the filing date of the objections. *See Houston v. Lack*, 487 U.S. 266, 270-72 (1988). Accordingly, the Memorandum of Opinion and Judgment entered September 28, 2004, are hereby WITHDRAWN, and the Opinion herein and Judgment entered contemporaneously herewith shall be SUBSTITUTED therefore.

This is a civil action pursuant to 42 U.S.C. § 1983 filed by plaintiff, Timothy Lee Batson, on February 11, 2003, alleging that his constitutional rights were violated while incarcerated at W. E. Donaldson Correctional Facility in Bessemer, Alabama. In his *pro se* complaint, plaintiff names Warden Daniels, Sgt. Reynolds, Capt. Richburg, and Officer Darreyl Kemp as defendants. He contends that defendants violated his right to due process

23

and equal protection of the law.<sup>1</sup> As compensation for the alleged constitutional violations, plaintiff seeks monetary relief. On July 21, 2004, the magistrate judge entered a report and recommendation, recommending that summary judgment be granted to defendants. On August 14, 2004, plaintiff filed objections to the report and recommendation.

Having carefully reviewed and considered *de novo* all the materials in the file, including the report and recommendation, the Court is of the opinion that the magistrate judge's findings of fact and conclusions of law are due to be and are hereby ADOPTED and his recommendation is ACCEPTED. Therefore, the Court EXPRESSLY FINDS that there are no genuine issues of material fact showing defendants Daniels, Reynolds, Richburg, or Kemp violated plaintiff's constitutional right to due process or equal protection of the law. As such, said defendants are entitled to judgment as a matter of law. Accordingly, the motion for summary judgment filed by defendants Daniels, Reynolds, Richburg, and Kemp is due to be GRANTED and plaintiff's claims are due to be DISMISSED WITH PREJUDICE.

An appropriate order will be entered.

DATED this 8<sup>th</sup> day of October, 2004.

  
JAMES H. HANCOCK  
SENIOR JUDGE

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<sup>1</sup> All other claims against said defendants were dismissed on September 18, 2003.